

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

March 4, 2015

Members Present:

Phil Barrow	Vice-President
Jim Martin	Secretary
Brian Alsip	Member
Rev. Richard Martin	Member

Members Absent:

Tim Holmes	President
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Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Jaime Shilts	Recording Secretary

Call to Order:

Phil Barrow called the meeting to order at 7:00 p.m.

Approval of Minutes:

Jim Martin made a motion to approve the February 4, 2015 minutes as submitted. Brian Alsip seconded the motion. The members voted to approve the minutes.

Swearing In:

Lynn Gray swore in the audience en masse. Ms. Gray explained that three of the four member votes will be required for action to be taken, since one member of the board is absent. She stated that if there is a 2-2 vote, it will automatically be continued to the next meeting.

Old Business:

None.

New Business:

ZB 2015-04 (UV) –Patriot Tactical:

The petition is for a use variance to allow a recreation use medium scale indoor shooting range in the IBD zoning district. A variance is needed as an indoor shooting range is not a permitted use in that district.

Jerry Johnson, President of Patriot Tactical, stated they are seeking a small qualification range, 21 feet or 7 yards which is the NRA qualification. They have been in business a year and a half and are trying to cater to Johnson County law enforcement, civilians and Camp Atterbury. He stated they have two

businesses, Patriot Tactical and Patriot Products. Patriot Products is a military defense contractor. He stated if they are not allowed to have the range, they will have to split the two businesses under Patriot Products or move the businesses. It would be hard as they do share current administrative duties.

Mr. Johnson stated the general welfare will not be affected. He stated it will have a positive impact on the community. There is not a shooting range in Johnson County. He stated they have an NRA certified instructor and armor so they can train novices.

Mr. Johnson stated the adjacent property will not be harmed. He stated most of the neighbors were in favor of it. The neighbor to the north is in support of the range. He stated they have to follow noise ranges parameters from IDEM.

Mr. Johnson stated the condition of the property would have to split the businesses as he mention before, if they couldn't have the range there. Their ranges are certified by the Federal government.

Mr. Johnson stated there is a hardship as they can't split the business. They would have to find a larger building to house both businesses.

Mr. Johnson stated the comprehensive plan will not be affected.

Michael Wishe, Whiteland, stated he is in favor of having the range.

Jack Borsos, Franklin, stated he is in favor of the range. It will be a place he can get more practice and instruction.

Mr. Johnson stated it is for handguns only in this building. He stated he was in agreement with and would comply with all of the recommendations by Staff.

Staff recommends approval with the following conditions:

1. A minimum of nineteen (19) total parking spaces, at least 9' x 18' in size, shall be maintained onsite, with appropriate pavement markings, and applicant shall provide onsite parking at a ratio of one (1) parking space per additional employee on the largest shift.
2. Any expansion or relocation of the indoor shooting range, shall require favorable action, including new findings of fact and conditions of approval, by the Board.
3. All applicable federal, state, and local permits/approvals are required; including, but not limited to, compliance with: all building and fire codes, and Indiana Department of Environmental Management air quality and lead handling standards.

Action taken on ZB 2015-04 (UV) –Patriot Tactical:

Jim Martin made a motion to approve the petition with the recommendations by staff:

1. A minimum of nineteen (19) total parking spaces, at least 9' x 18' in size, shall be maintained onsite, with appropriate pavement markings, and applicant shall provide onsite parking at a ratio of one (1) parking space per additional employee on the largest shift.
2. Any expansion or relocation of the indoor shooting range, shall require favorable action, including new findings of fact and conditions of approval, by the Board.
3. All applicable federal, state, and local permits/approvals are required; including, but not limited to, compliance with: all building and fire codes, and Indiana Department of Environmental Management air quality and lead handling standards.

Brian Alsip seconded the motion. The motion carried. The variance passed.

ZB 2015-05 (V) Kroger Marketplace:

The petition is for the property north of Mallory Parkway and west of N. Morton Street. The petition is for developmental standards variances from:

- (1.) Article 3, Chapter 18 (Maximum Lot Area)
- (2.) Article 3, Chapter 18 (Maximum Lot Coverage)
- (3.) Article 7, Chapter 11 (Loading Berth)
- (4.) Article 7, Chapter 12 (Entrance Drive Separation)
- (5.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Display Windows)
- (6.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Customer Entrance)
- (7.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Detail Features)
- (8.) Article 7, Chapter 19 (Large Scale Retail Architectural Standards – Recesses / Projections)
- (9.) Article 5, Chapter 4 (Gateway-Overlay – Foundation Plantings)

They are all in the MXC zoning district and Gateway Overlay district. The variances are needed as the MXC zoning district sets maximum lot sizes at 10 acres. Part of the request is that applicants are proposing to subdivide the property and Lot 1 of the subdivision is for the Kroger store and is proposed to be 11.54 acres. The maximum lot coverage is 75% and the applicants are proposing 88.47%. The loading berths are not permitted to face a front yard and they are designed facing Mallory Parkway. The entrance drive separation minimum is 100 feet. The applicants are proposing 90 foot separation for Kroger and Canary Creek Cinemas. All façade walls shall have windows for no less than 60% of the façade wall's horizontal length along all pedestrian walkways. The petitioner is proposing to provide 41.74% display windows on the east façade. The petitioner is requesting to not have a customer entrance off of Mallory Parkway. Three architectural detail features are required and the petitioner is requesting to vary from this on all four sides. Recesses and projections are required on front façade walls. They are requesting to vary from this on the east and south frontages. They are requesting to not provide any landscaping between the walkway and building.

Mr. Getchell stated that certified letters had been mailed instead of certificates of mailing. Brian Alsip made a motion to approve the certified mailings. Jim Martin seconded the motion. The motion carried.

Russell Brown, Attorney representing Kroger, stated they are in the entitlement process for a new commercial development covering 22 acres in size. The Kroger site is a 123,000 sq ft store. It will double the footprint of the current Kroger store, increase customer selections, and employment. It will have a drive-thru pharmacy, home selections, and a Starbucks.

Mr. Brown stated they are requesting a lot size variance as the variance allows 10 acres and the lot size is 11.5 acres. The increase in size is needed for the store and parking. He stated the lot coverage will need to exceed the minimum due to the size of the store, utility easements, and parking needs. Kroger has attempted to utilize significant landscaping in parking lot islands to ameliorate the lot coverages. He stated the size of the store has led to other variances including the use of windows, entrances and recesses and projections. He stated they have incorporated significant windows, canopies, and material changes. He stated the presence of drive-thru pharmacy on the south side causes safety and security concerns with having an entrance on Mallory Parkway. He stated the required foundation plantings would provide good opportunities for hiding or nesting for rodents or pests, which is not desirable for a grocery store. He stated they will have around 150 trees plus ornamental grasses and other landscaping in other areas onsite.

They have requested a variance for the truck docks visible off of Mallory Parkway. He stated that with having the two frontages, the large size of the store, and layout of the property, the design provided is

the most efficient for minimizing truck, car, and pedestrian traffic conflicts. The location of the docks sits 200 feet back from the right-of-way and visualizes minimal impact.

Mr. Brown stated they want to line up the western most entrance to the property with entrances to Kohls to the south and it does provide for better truck ingress and egress. He stated they may have to relocate the entrance to the south. Currently, access to the cinemas is via a defined easement. He stated, at the request of staff, Kroger has begun discussions to vacate that easement and to assist in the construction of a new dedicated entrance for the cinema. The agreement is not in place yet. It will avoid entrance and exit traffic from the cinemas and separate the Kroger use from the cinema use.

Mr. Brown stated they believe a project of this size and complexity there are always design challenges and practical difficulties created. They believe this property provides unique challenges, including being situated on two road frontages, being a second tier property on N. Morton, and being sandwiched between existing uses. They believe what has been proposed meets the intent of the gateway overlay, while still allowing a functional market driven project to occur on-site, without any negative impact to surrounding uses.

Mr. Brown stated the petitioners are in agreement with staff's recommendation and the first two conditions of approval. Ms. Gray questioned if the easement agreement referred to in the third condition is not reached what the impact would be. Mr. Getchell stated if they can't come to an agreement they would either have another separate variance or not need the variance at all. He stated they would need a copy of whatever agreement is made with Kroger and Canary Creek Cinemas. Mr. Brown stated if they don't have the second drive due to not having an agreement, they wouldn't need the variance. There was a discussion on the language of staff's recommendation in the third condition. Mr. Brown, Ms. Gray, and Mr. Getchell agreed that the language of the third condition should be changed to the following: If an agreement is reached to relocate the Canary Creek Cinemas entrance drive on Mallory Parkway, petitioner shall provide a copy of the agreement with C C Cinemas, LLC, to Planning Staff prior to approval of the Site Development Plan approval.

Candis Allen, 561 Mallory Pkwy, stated she has lived there for 15 years. She stated her home value has gone down over \$10,000 because of the Kohls building. She stated she wants to know how large the berm is going to be around the building and they also want a privacy fence around Kroger. She stated her concern about semis making deliveries on Mallory Pkwy where children walk to the middle school. She is also concerned that the store may someday go out of business and will leave another empty store. She stated Kohls built higher than her grade. They are concerned about the grade. She questioned if the ground water will drain in the current detention pond. She stated she is opposed to the Kroger unless the conditions can be met.

Mr. Brown stated they are meeting the landscaping obligations and are trying to use buffering. He stated it will be a Kroger Home Store which is a longer term investment in the community. He stated Kroger believes there is a void in the grocery market. Kroger will be the owner of the store and not leasing, indicating a longer term investment. He stated Mallory Parkway is capable of handling the truck traffic and it is a signalized intersection at N. Morton Street. The drainage will be handled onsite is being designed to handle the Kroger site, as well as, a developed site to the north, in a comprehensive approach. He stated they will be at the next Plan Commission meeting.

Ross Beyer, Kroger, stated they will continue to work with the City and work to the City's standards. He stated they have an excellent safety record. He stated the impact of Kroger deliveries on Mallory Parkway with school pedestrian traffic will be a small fraction of the traffic impact of US 31.

Mr. Alsip questioned if there were any studies on adjacent property values. Mr. Brown stated there was one study done nationally that found there may be a decrease in residential property values in those

within 200 feet of a commercial development but that beyond 200 feet there was an increase in values due to the close proximity. Rev. Martin questioned about the deliveries not being during school hours. Mr. Beyer stated they can't make commitments on deliveries as each company delivers at different time.

William Allen, 561 Mallory Pkwy, stated he would like to see protection of Canary Creek on the south side to protect their properties from trash. Mr. Getchell stated the dumpsters do need to be enclosed. Mr. Allen stated there also should not be overnight truck parking on Mallory Parkway or in the loading dock.

Rev. Martin asked if there will be gas pumps. Mr. Brown stated the Kroger fuel center will stay where it is at this time.

Staff recommends approval with the following conditions:

A. All signage provided on the property shall require separate review and approval, upon submission of the sign permit applications and associated detailed renderings.

B. With the understanding the site plan, landscape plan and building elevations may change slightly as a result of the on-going Site Development Plan review process, the overall landscape plan and building elevations shall be essentially consistent with the landscape plan provided on February 20, 2015, and the Building elevations provided on February 12, 2015, with the exception of the signage, which has not been reviewed.

C. If an agreement is reached to relocate the Canary Creek Cinemas entrance drive on Mallory Parkway, petitioner shall provide a copy of the agreement with C C Cinemas, LLC, to Planning Staff prior to Site Development Plan approval.

Action taken on ZB 2015-05 (V) Kroger Marketplace:

Brian Alsip made a motion to approve all nine variances with the recommendations by Staff.

A. All signage provided on the property shall require separate review and approval, upon submission of the sign permit applications and associated detailed renderings.

B. With the understanding the site plan, landscape plan and building elevations may change slightly as a result of the on-going Site Development Plan review process, the overall landscape plan and building elevations shall be essentially consistent with the landscape plan provided on February 20, 2015, and the Building elevations provided on February 12, 2015, with the exception of the signage, which has not been reviewed.

C. If an agreement is reached to relocate the Canary Creek Cinemas entrance drive on Mallory Parkway, petitioner shall provide a copy of the agreement with C C Cinemas, LLC, to Planning Staff prior to Site Development Plan approval.

Jim Martin seconded the motion. The motion carried. The variances were approved.

ZB 2015-06 (SE) Creekside Church of Christ:

The petition is for a special exception at 600 Banta Street to allow a church at or other place of worship in the MXC zoning district and the Gateway Overlay district.

Dan Barker, Minister for Creekside Church of Christ, stated they have outgrown their current location and are looking to move. They average around 45 people on a Sunday at 3:00 p.m. and around 40 on Tuesdays for Bible Study at 7:00 p.m. They don't have daycare or any sort of school.

Mr. Barker stated the general welfare will not be injurious to the public. They are a church and will be worshipping.

Mr. Barker stated they will meet the requirements stated by Staff.

Mr. Barker stated the variance will not be contrary to the ordinance. He stated they have received a letter of support.

Mr. Baker stated the adjacent property will not be harmed. The other businesses are closed when they will be there.

Mr. Barker stated the comprehensive plan will not be interfered with.

Staff recommends approval with the following conditions:

1. An application shall be submitted to and shall receive approval from the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
2. Where applicable, Improvement Location Permit(s) shall be obtained prior to construction/renovation.

Ms. Gray stated they would have to contact Homeland Security. Mr. Barker stated they had to contact them previously and were familiar with the procedure.

Action taken on ZB 2015-06 (SE) Creekside Church of Christ:

Rev. Martin made a motion to approve the variance with the recommendations by Staff:

1. An application shall be submitted to and shall receive approval from the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
2. Where applicable, Improvement Location Permit(s) shall be obtained prior to construction/renovation.

Jim Martin seconded the motion. The motion carried. The variance passed.

ZB 2015-07 (UV)-Habitat for Humanity ReStore:

The petition is for a use variance at 2112 Early Lane to allow a retail use medium scale variety store in the IL zoning and the Gateway Overlay districts. A variance is needed as a variety store is not allowed in the IL zoning district.

Lee Ann Wilbur, Executive Director, Habitat for Humanity stated they have been around since 2006. They want to open a ReStore in Johnson County. They have space behind their building but do not have enough space to serve all of Johnson County. She stated a ReStore is for items to be donated to. About 60% of their phone calls are about people asking to make donations or asking if they have a ReStore. The ReStore would take in new or gently used building materials.

Ms. Wilbur stated the general welfare would not be affected. It would help families in Johnson County and further the mission of Habitat for Humanity.

Ms. Wilbur stated the adjacent properties would not be affected. There are storage facilities and DuKate Fine Remodeling is also at that location. She stated it will fit in with the antique stores and the salvage store. She stated she has a good relationship with Franklin Heritage. Franklin Heritage get items that are older than 1960 and Habitat gets items that are newer than 1960.

Ms. Wilbur stated the site will help them because of the location since they serve all of Johnson County. It has ease of access for the whole county.

Ms. Wilbur stated there will be an unnecessary hardship as they won't be able to sell their items at the current location.

Ms. Wilbur stated their plan agrees with the comprehensive plan.

Ms. Wilbur stated there is one person that is in the building now that will have their lease up at the end of April or May. She stated they do want to move their office there too. She stated they will have to reconfigure things and she has already had her contractors there.

Staff recommends approval with the following conditions:

- a. Any expansion or relocation of the variety store (Habitat for Humanity ReStore), shall require favorable action, including new findings of fact and conditions of approval, by the Board.
- b. A minimum of twenty (20) parking spaces, at least 9' x 18' in size, shall be maintained onsite, with appropriate pavement markings, specifically for the variety store (Habitat for Humanity ReStore) use.
- c. An application shall be submitted to the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
- d. All applicable Federal, State, and Local permits and approvals are required.

Action taken on ZB 2015-07 (UV)-Habitat for Humanity ReStore:

Jim Martin made a motion to approve the variance with the following conditions recommended by Staff:

- a. Any expansion or relocation of the variety store (Habitat for Humanity ReStore), shall require favorable action, including new findings of fact and conditions of approval, by the Board.
- b. A minimum of twenty (20) parking spaces, at least 9' x 18' in size, shall be maintained onsite, with appropriate pavement markings, specifically for the variety store (Habitat for Humanity ReStore) use.
- c. An application shall be submitted to the Division of Fire & Building Safety Plan Review Branch of the Indiana Department of Homeland Security for the change of use, and the structure shall meet all building code requirements for the change of use.
- d. All applicable Federal, State, and Local permits and approvals are required.

Brian Alsip seconded the motion. The motion carried. The variance passed.

Other:

None

Adjournment:

There being no further business, the meeting was adjourned.

Respectfully submitted this 6th day of May, 2015.

Tim Holmes, Chairman

Jim Martin, Secretary